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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,120	03/17/2004	Brian D. Cunningham	MESS-001/00US 307102-2003	5291
58249 7590 01/22/2010 COOLEY GODWARD KRONISH LLP ATTN: Patent Group Suite 1100 777 - 6th Street, NW WASHINGTON, DC 20001			EXAMINER JAKOVAC, RYAN J	
			ART UNIT 2445	PAPER NUMBER
			MAIL DATE 01/22/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/803,120	Applicant(s) CUNNINGHAM, BRIAN D.	
	Examiner RYAN J. JAKOVAC	Art Unit 2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-51,53-79 and 81-88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-51,53-79 and 81-88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/09/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 31-51, 53-79, and 81-88 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 31-36, 38-51, 53-54, 56-79, 81-88 are rejected under 35 U.S.C. 102(e) as being anticipated by US 20030220978 to Rhodes.

Regarding claim 31-33, 36, 47-49, 52, 53, 76, Rhodes teaches a method comprising:
associating with an electronic message authorized by an originator identification data uniquely identifying said electronic message (Rhodes, fig. 8, email message with originator key.
See [0058-0059].);

storing said identification data (Rhodes, [0058-0059].);

sending to an intended recipient said electronic message with said identification data (Rhodes, [0058-0059], fig. 8, message sent to recipient including originator key.);

receiving on behalf of the intended recipient a confirmation request including said identification data and requesting confirmation that the said electronic message was authorized by the originator (Rhodes, fig. 8, challenge message.);

comparing said identification data received in said confirmation request to said stored identification data (Rhodes, [0058-0059], fig. 8, “On the sender-side SVP, the parsed challenge message is examined to determine if it contains a known Originator Key at 811.”); and

upon determining that said identification data received in said confirmation request matches said stored identification data, responding to said confirmation request, affirming said electronic message was authorized by the originator (Rhodes, [0058-0059], response to challenge message. See also [0047-0053] and fig. 7.).

Regarding claim 34, 50-51, Rhodes teaches the method of claim 31, wherein said identification data is included in a message header of said electronic message (Rhodes, fig. 4-6.), and wherein said identification data is alphanumeric string (Rhodes, [0040-0041].).

Regarding claim 35, 46, 54, Rhodes teaches the method of claim 31, wherein said sending includes attaching said identification data as an attachment to said electronic message (Rhodes, [0041], “The message body typically includes text, attachments, links, and the like that comprise the information the sender desires to convey to the recipient. In accordance with the present invention, senders who are using a sender verification protocol include an Originator Key value in the message body.”).

Regarding claim 38-43, 56-61, The combination of Fabre and Tomkow teaches the method of claim 31, wherein said receiving a confirmation request includes receiving said confirmation request via port-to-port communication (Rhodes, fig. 8. See also fig. 2-3.).

Regarding claim 44, 45, Rhodes teaches the method of claim 31, wherein said comparing is performed at a device different from a device at which said associating is performed, wherein said comparing is performed at a device different from a device at which said sending is performed (Rhodes, fig. 7-8, [0047-0058].).

Regarding claim 63-68, 70-75, 77-79, 81-84, Rhodes teaches the method of claim 62, wherein said receiving a confirmation request includes receiving said confirmation request via port-to-port communication, wherein said receiving a confirmation request includes receiving a confirming electronic message (Rhodes, fig. 8, [0047-0059]. See also fig. 2-3.).

Regarding claims 2, 69, Rhodes teaches the method comprising: receiving a confirmation request to confirm that an electronic message sent to an intended recipient was authorized by an originator identified in the electronic message (Rhodes, fig. 8, [0058-0059], challenge message.), the confirmation request including identification data purporting to uniquely identify the electronic message (Rhodes, fig. 8, [0058-0059], challenge message with originator key.); searching a data store for said identification data (Rhodes, [0058-0059], fig. 8, sender side confirmation of key.); and upon determining that said data store contains said identification data,

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responding to said confirmation request, affirming the electronic message was authorized by the originator (Rhodes, [0058-0059], fig. 8, challenge response.).

Regarding claim 85, Rhodes teaches the method of claim 31, wherein: the associating, storing and sending are at a sending module of a sending email system (Rhodes, fig. 2-3.); and the receiving, comparing and responding are at a confirmation module of the sending email system (Rhodes, fig. 2-3. See also fig. 8.).

Regarding claim 86-87, Rhodes teaches the method of claim 62, wherein the receiving, searching and responding are at a confirmation module of a sending email system (Rhodes, fig. 2-3. See also fig. 8.).

Regarding claim 88, Rhodes teaches the method of claim 76, wherein receiving the first electronic message, sending the first confirmation request, receiving the response affirming said first electronic message was authorized by the originator, allowing said first electronic message to be further processed, receiving the second electronic message, and sending the second confirmation request are at a receiving email system (Rhodes, fig. 2-3, receiving mail system. See also fig. 8, receiving mail system.).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 37 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes in view of WO 01/10090 to Tomkow.

Regarding claim 37, 55, Rhodes teaches the method of claim 31, Rhodes does not expressly disclose calculating a checksum for said message text; and including said checksum in said identification data and said second electronic message includes one of a text message, VoIP message, or instant message.

However, Tomkow discloses calculating a checksum for said message text; and including said checksum in said identification data and said second electronic message includes one of a text message, VoIP message, or instant message (Tomkow, pg. 4-5, digital signature is created using a hash function on the message.).

Therefore it would have been obvious to combine calculating a checksum for said message text; and including said checksum in said identification data and said second electronic message includes one of a text message, VoIP message, or instant message as taught by Tomkow with the teachings of Rhodes in order to utilize an encrypted message digest for message authentication (Tomkow [0018].).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. JAKOVAC whose telephone number is (571)270-5003. The examiner can normally be reached on Monday through Friday, 7:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rupal D. Dharia/
Supervisory Patent Examiner, Art Unit
2400

/Ryan Jakovac/